IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 5201 of 2005

Between:

Md. Ghouse Pasha,
C/o. Srinivas, Nagar Kurnool, Mahaboobnagar District.

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C. Shadnagar,

Mahaboobnagar District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or directions, more in the nature of Writ of Mandamus, declaring the Office Order dated 16-8-91 as illegal and arbitrary and set-aside the same with all consequential benefits including arrears and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following:

ORDER:

Declaring the action of the respondent in imposing major penalty vide proceedings No.E2/1 (65)/91-SDNR dated 16.08.1991, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for unauthorized absence to duties from 06.04.1991 to 23.04.1991. He submitted his explanation. The respondent passed an order on 16.08.1991 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of two years, which shall have effect on future increments of the petitioner. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondent is illegal and to direct the respondent to add the deferred increments.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of two years with cumulative effect, imposed by the respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of two years without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order, but he is entitled to get the increments on notional calculation from the date of this order, to which, he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

Dated: 16.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Shadnagar. Mahaboobnagar District

2. Two CD copies

*Form-NIC-OGS/WP{**RLD**}*